THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.12394 OF 2006

22.06.2006

Between

M.Hemalatha

…Petitioner

And

The District Collector, Warangal and others

…Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.12394 OF 2006

ORDER:

The petitioner claims to be a former member of Communist Party of India [(ML) CP Group, popularly known as Naxalites]. She surrendered as a result of which she became entitled for the benefits under a Government Scheme meant for surrendered extremist. She was therefore allotted a house site admeasuring 200 square yards in survey No.464 situated at Waddepally village, by proceedings dated 28.11.1992. She, along with another person by name Mattupalli Ramesh filed W.P.No.2105 of 2006 for a writ of Mandamus declaring the action of the District Collector, Warangal; Revenue Divisional Officer (RDO) and Mandal Revenue Officer (MRO) of Hanumkonda as well as the fifth respondent herein in re-allotting the land of the petitioners admeasuring 350 square yards to fifth respondent herein as illegal and arbitrary.

They alleged in this writ petition that they were assigned house site pattas, which were sought to be surrendered to the fifth respondent. This Court disposed of the writ petition on 03.02.2006, at the admission stage, observing that unless and until proper cancellation orders are issued, the petitioners cannot be dispossessed and that it shall be open to the respondents therein to initiate action to take the land in accordance with law. Thereafter, the MRO, third respondent herein, issued notices on 22.03.2006 and 15.04.2006 to consider the request of the petitioner herein for regularisation of the land in her occupation. By proceedings, dated 24.04.2006, the MRO came to the conclusion that the petitioner was already evicted on 04.08.1994 very much before the issue of G.O.Ms.No.508, dated 20.10.1995, and therefore, her request for regularisation cannot be considered especially when the land is allotted to the fifth respondent for construction of a building as per the proceedings of the District Collector, dated 15.02.2004. This proceeding of the MRO is assailed in the writ petition.

Learned counsel for the petitioner strenuously contends that the

petitioner is in occupation of land admeasuring 450 square yards including the land assigned to her in 1992, and therefore, she is entitled for regularisation in accordance with G.O.Ms.No.508, dated 20.10.1995 as well as the orders of the Government in G.O.Ms.No.1601, dated 29.08.2005. **Per contra**, Opposing the writ petition, learned Assistant Government Pleader for Revenue submits that what was assigned to the petitioner was only 200 square yards but she approached the Court by misrepresenting that she is entitled for regularisation as the land in question was already taken over possession by the Government. He also points out that even as per G.O.Ms.No.1601, dated 29.08.2005, she is not entitled for said regularisation.

The petitioner admits that what was assigned to her by proceedings, dated 28.11.1992, by the MRO is only 200 square yards of land. She encroached upon the land over and above the same. A reading of the impugned order discloses that the Joint Collector inspected the site in 1994 and gave directions on 06.08.1994 to demolish the part of the compound wall. Accordingly, Mandal Revenue Inspector, Hanumkonda took possession of the land and the same was allotted to the fifth respondent by proceedings, dated 15.02.2004. A reading of the order passed by this Court in W.P.No.2105 of 2005, dated 03.02.2006, would disclose that the petitioner made a misrepresentation before this Court that the entire land was assigned to her and this Court disposed of the matter directing the respondents to follow due process of law. Even by the date the land encroached upon by the petitioner was already taken over and this fact was withheld from the Court. For this reason alone, the writ petition cannot be entertained.

As found by the MRO, the Government issued G.O.Ms.No.508, dated 20.10.1995, ordering regularisation of lands to the extent of 100 square yards free of cost and over and above that at reasonable market price. Such benefit is subject to number of conditions to be satisfied by an application for regularisation. As rightly concluded by the Mandal Revenue Officer, the petitioner was evicted on 04.08.1994 itself, and therefore the question of regularisation in accordance with G.O.Ms.No.508, dated 20.10.1995, does not arise. Further more, the petitioner is also not entitled for any benefit under G.O.Ms.No.1601, dated 29.08.2005. Paragraph 12 thereof, insofar as the same is relevant for the purpose of this case, reads as under.

> 12. As a large number of cases are pending for regularisation for residential and commercial purposes, the time limit is extended for a further period of one more year i.e., from 01.04.2005 to 31.03.2006 with the following conditions.

i) The last date for receiving fresh applications is extended upto 31.12.2005.

ii) The encroachment should be on or before 31.03.1990. Applications in respect of encroachment made after 31.03.1990 will not be accepted.

iii) There shall be a residential or commercial structure existing on the land.

iv) The extent of land encroached upon by the encroacher should not be in violation of the provisions of the Urban Land Ceiling Act. In computing the total holding, the extent of land, if any, owned by the person will be computed strictly according to the provisions of the U.L.C.Act.

v) The regularisation will be strictly limited to cases, where the encroachment is unobjectionable. Where the land under encroachment is found more suitable for any public purpose, the Government reserves the right to earmark the land for such public purpose as it deemed fit and the encroacher shall be evicted.

As per Condition 12(ii) above read with Condition 12(v), the petitioner is not entitled for any regularisation because her assignment itself was made in 1992, and therefore, she could not have encroached upon the Government land on or before 31.03.1990 (See Condition 12(ii)). Nextly, whenever the land is for any public purpose, no regularisation can be ordered as per Condition 12(v). In this case, the Collector issued sanction orders for allotting the land to the fifth respondent for construction of building. The impugned order is therefore unexceptionable.

The writ petition, for the above reasons, is dismissed *in limini.* No costs.

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(V.V.S.RAO,J)

22.06.2006
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